

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WAYNE LEWIS,

Plaintiff,

v.

PROCOLLECT,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

No. 11-cv-373

PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL

WAYNE LEWIS (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against PROCOLLECT (Defendant):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 *U.S.C. 1391(b)(1)*.

PARTIES

6. Plaintiff is a natural person residing at Dallas, Dallas County, Texas.
7. Plaintiff is a consumer as that term is defined by 15 *U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 *U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by 15 *U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national debt collection company with its main office located in Dallas County and it conducts business in Texas.

FACTUAL ALLEGATIONS

10. Defendant constantly and continuously placed collection calls to Plaintiff over the past six months seeking and demanding payment for an alleged consumer debt, calling Plaintiff multiple times per day continuously for at least six months.
11. Defendant calls Plaintiff from 214-382-4871.
12. Defendant also calls Plaintiff at his place of work up to three times per week
13. Plaintiff told Defendant to stop calling him at home and at work but Defendant continues calling.
14. Defendant threatened to negatively impact Plaintiff's credit.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(3) of the FDCPA by attempting to communicate with Plaintiff at Plaintiff's place of employment when Defendant had reason to know that Plaintiff's employer prohibited such communication.
- b. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which was to harass, oppress, and abuse Plaintiff.
- c. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- d. Defendant violated §1692e(5) of the FDCPA by threatening to negatively impact Plaintiff's credit score.

WHEREFORE, Plaintiff, WAYNE LEWIS, respectfully requests judgment be entered against Defendant, PROCOLLECT, for the following:

16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
18. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

Dated: February 23, 2011

By: /s/Peter Cozmyk,
Peter Cozmyk Esq.
Attorney for Plaintiff
Krohn & Moss, Ltd.
8043 Corporate Circle
Suite 3
North Royalton, OH 44133
pcozmyk@consumerlawcenter.com
Phone: (323) 988-2400 x 213
Fax: (866) 799-3206

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, WAYNE LEWIS, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, WAYNE LEWIS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, WAYNE LEWIS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

2.16.11
Date


WAYNE LEWIS